

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
*Norfolk Division*

UNITED STATES OF AMERICA

v.

DAVID ALCORN & AGHEE WILLIAM  
SMITH II,

Defendants.

Case No. 2:19cr47

**GOVERNMENT’S MOTION TO SUBSTITUTE EXHIBITS**

COMES NOW, the United States of American, by and through its attorneys, Jessica D. Aber, United States Attorney for the Eastern District of Virginia, and Melissa E. O’Boyle, Elizabeth M. Yusi, and Andrew M. Bosse, Assistant United States Attorneys, and respectfully moves to substitute redacted exhibits for certain government exhibits that were entered during trial. The government has consulted with defense counsel, and they do not oppose this motion. In support thereof, the government states as follows:

Although there is a public right of access to public records, that right can be overridden by important concerns of personal privacy. *Whalen v. Roe*, 429 U.S. 589 (1977) (medical records regarding prescriptions); *U.S. Department of Justice v. Reporters Comm. for Freedom of the Press*, 498 U.S. 749 (1989) (criminal histories). Further, Federal Rule of Criminal Procedure 49.1 provides for the redaction of social security numbers, dates of birth, financial account numbers, and addresses. The exhibits discussed herein contain dates of birth, social security numbers, addresses, and financial account numbers. Thus, we are requesting their substitution as described below.

To comply with Rule 49.1 of the Federal Rules of Criminal Procedure, the government moves to replace the following unredacted exhibits with redacted exhibits:

<b>No.</b>	<b>Description of Exhibit</b>
33	Ruth Clark Check and Mailing
40	Gerek SunTrust DSPF Check – November 2, 2012
41	DSPF GEREK, LLC BayPort Credit Union Account Ending In 0048
43	DSPF Area Development Agreement – November 22, 2012
54	Email string between Bank and Gerek – September 2015 – August 2017
62	MidFlorida Credit Union Excel Bandwidth, LLC Bank Accounts Ending In 1973 and 1931
63	Generations Federal Credit Union Xcel Bandwidth, LLC Bank Account Ending In 6709
65	Dominion Investment Group, LLC BayPort Credit Union Account Application and Signature Card For Account Ending In 9056
70	Dominion Private Client Group, LLC BayPort Credit Union Account Application and Signature Cards Account Ending In 8622
74	Dominion Private Client Group, LLC – Oculina Bank Account Ending In 3011
77	Dominion Franchise Group, LLC BayPort Credit Union Account Application and Signature Card – Account Ending In 9806
81	Dominion Diversified Strategies, LLC BayPort Credit Union Account Application and Signature Card
89	DOM Consulting Services, LLC – Oculina Bank Account Ending In 5979
2000	Thomas Barnett DSPF Sales Agreement
204	DSPF Franchise Agreement
205	DSPF Area Development Agreement

210	DSPF Walsh, LLC Bayport Credit Union Bank Account
211	Barbara Russell, LLC Bayport Credit Union Bank Account
212	DSPF Houston LLC Bayport Credit Union Bank Account
213	DSPF DBunn LLC Bayport Credit Union Bank Account
214	DSPF ARangel LLC Bayport Credit Union Bank Account
215	DSPF TAustin LLC Bayport Credit Union Bank Account
216	DSPF M. Gray LLC Bayport Credit Union Bank Account
217	DSPF H. Gray LLC Bayport Credit Union Bank Account
218	Teaching And Learning For All Bayport Credit Union Bank Account
219	Peter and Margo Perry LLC Bayport Credit Union Bank Account
226	DSPF Group, LLC Bayport Credit Union Bank Account Application and Signature Cards
249	DSPF Group Advertisement
250B	DSPF Group, LLC – Bayport Federal Credit Union Account Ending In 9219
265	Wire Transfer from DSPF Group, LLC to Tony Sellers
266	Tony Sellers Asset Purchase Agreement – Dental Support Plus Franchise – September 24, 2013
281	Debra Barry – Summit Trust Statements – DSP- 000003
288	DSPF Uniform Franchise Disclosure Document
301B	Janus Spectrum Group, LLC Bayport Credit Union Bank Account Application and Signature Cards

303	Spectrum Management LLC Bayport Credit Union Bank Account Application and Signature Cards
316	Janus Spectrum Group Operating Agreement
330	Janus Spectrum Group, LLC – Oculina Bank Account Ending 3194
400A	Emails between Alcorn and Bank re: Lincoln Spectrum – 11-4-13
401	Prime Spectrum, LLC Bayport Credit Union Bank Account Application and Signature Cards
403	Prime Spectrum Management, LLC Bayport Credit Union Account Application and Signature Cards
501	Spectrum 100, LLC Bayport Credit Union Bank Account Application and Signature Cards
503	Spectrum 100 Management, LLC Bayport Credit Union Bank Account Application and Signature Cards
523	Summary Chart – Spectrum 100, LLC Oculina Bank Account Ending In 3054
525	Spectrum 100 Management LLC – Oculina Bank Account Ending In 3038
604	Diversified Financing LLC – BayPort Credit Union Bank Account Ending In 9505
604A	Accelerator Management, LLC – BayPort Credit Union Ending In 9684
608	Diversified Financing, LLC – Oculina Bank Account Ending In 3291
616	Diversified Financing LLC FBO Xcel Bandwidth, LLC – Oculina Bank Account Ending In 3747
617	Xcel Bandwidth, LLC – Oculina Bank Account Ending In 7718
618	Accelerator Management LLC – Oculina Bank Account 3216
620	Operating Agreement of Xcel Bandwidth Two

621	Xcel Bandwidth Member Loan Agreement
633	Xcel Bandwidth One LLC Operating Agreement
634	Xcel Bandwidth One Membership Interest and Loan
702	Email chain re: Side Agreement – November 30, 2011
702A	Application Services Agreement – November 28, 2011
708	Alcorn email to Susan Newell re: Commercialization Agreement – 9/27/13
709	Commercialization Agreement – 10/1/13
712	Newell email re: Call with David Alcorn – 2/17/14
723	Emails between Craig Newell and Alcorn – 6/19/15
726	Six Cities Associates, LLC – Alcorn Letter
735	Operating Agreement of Lincoln Spectrum, LLC – 6-6-2013
802	IRA Services Authorization – Hullum Practice Management
807	Michelle Yee Asset Purchase Agreement – DSPF Group – May 17, 2013
808	DSPF Group, LLC Operating Agreement
813	Michelle Yee Asset Purchase Agreement v2 – DSPF Group– May 17, 2013
814	DSPF Group, LLC Operating Agreement v2
817	Xcel Bandwidth Two Operating Agreement – Bean
821	Provident Trust Account Statement – December 31, 2018

824	Provident Trust Account Statement – December 31, 2019
831	IRA Services Investment Authorization – Sykes
832	IRA Services Representative Authorization – Sykes
833	Xcel Bandwidth Buyer Agreement – Sykes
835	Xcel Bandwidth Two Operating Agreement – Sykes
845	Carol Groff – Dominion Investor Packet
855	Wilfried Berndt Asset Purchase Agreement - Spectrum 100 -
858	Email between Raymond Martin and Gibson re: Spectrum 100 – June 8, 2013
877	Nicholas Gentile Asset Purchase Agreement – Spectrum 100 – March 12, 2014
879	Nicholas Gentile Asset Purchase Agreement –Spectrum 100 – July 21, 2014
887	Nicholas Gentile Asset Purchase Agreement – Spectrum 100 – June 19, 2015
891	Check from Lawrence Lyon to Xcel Bandwidth – February 22, 2017
898	Letter from Shelton & Power, LLC dated 7/7/15 re: Our Client: Western Spectrum Ventures II, LLC
1002A	Signature Cards – Janus Spectrum, LLC – Wells Fargo Account Ending In 7384
1002D	Signature Cards – Janus Spectrum, LLC – Wells Fargo Account Ending In 5290
1002G	Signature Cards – Janus Spectrum, LLC Debtor in Possession – Arizona Business Bank Account Ending In 4974
1002J	Signature Cards – Janus Spectrum, LLC Debtor in Possession – Arizona Business Bank Account Ending In 6142

1019V	Signature Cards – PECS Management, LLC – JP Morgan Bank Account Ending In 7080
1019Y	Signature Cards – PECS Management, LLC – Wells Fargo Bank Account Ending In 4870
1020C	Kent Maerki Personal Account – Signature Card – Wells Fargo Bank Account Ending in 8609
1020E	Kent Maerki Personal Account – Wells Fargo Bank Account Ending in 8609
1102	David Alcorn Professional Corporation – Wells Fargo Bank Account Ending In 7417
1104	David Alcorn Professional Corporation – Wells Fargo Savings Account Ending In 8435
1107	David & Elizabeth Alcorn Wells Fargo Check and Savings Accounts Ending in 1474 & 6604
1110	David Alcorn Professional Corporation Retirement Plan – Arizona Business Bank Account Ending In 5760
1116	Brooksam, LLC – Arizona Business Bank Account Ending In 3854
1117	David Alcorn's Charles Schwab Account Ending In 8925 & 9732
1123	David Alcorn's Wells Fargo VISA Statements
1204	American Estate & Insurance Services, Inc. – Wells Fargo Bank Account Ending in 7629
1207	A.W. Smith & Associates – Wells Fargo Bank Accounts Ending In 6340 & 0888
1208	MBP Advisory, LLC – Wells Fargo Bank Account Ending In 7929
1210	Aghee W. Smith – Wells Fargo Bank Account Ending In 8998
1212	A William Smith & Susan Smith – Golden 1 Credit Union Account Ending In 0346
1214	Aghee Bill Smith's Gradient Application

Should the Court grant this motion, the government will coordinate with the Court's courtroom deputy to effect the substitution of the exhibits.

## CONCLUSION

For the foregoing reasons, this government requests the Court grant the government's unopposed motion to replace certain exhibits with redacted exhibits as requested herein. A proposed Order is attached.

Respectfully submitted,

Jessica D. Aber  
United States Attorney

By: /s/  
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of March, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record.

/s/

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Elizabeth M. Yusi  
Assistant United States Attorney  
Attorney for the United States